United Nations A/66/166/Add.1

General Assembly

Distr.: General
19 September 2011

Original: English

Sixty-sixth session
Agenda item 98 (e)
Towards an arms trade treaty: establishing common international standards for the import, export and transfer of conventional arms

The arms trade treaty

Report of the Secretary-General

Addendum*

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* This information was received after the submission of the main report.

11-50473 (E) 051011

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Bangladesh

[Original: English]
[28 June 2011]

According to the Arms Act 1878, the management of arms and ammunition of a non-military nature is conducted by the Home Ministry. Broadly speaking, there are two types of weapons, namely, non-prohibited and prohibited bore. Licences for non-prohibited weapons are generally issued to civilians for safety, games and sports. Prohibited bore weapons are used by law enforcers and security forces in the country. In Bangladesh, all types of weapons handling, purchasing, manufacture, import, export, shipment, etc., are guided by this Act.

The manufacturing of arms and ammunition is carried out only by the Bangladesh Ordnance Factory, which is concerned with the Armed Forces Division. Other than this, there is no manufacturer or producer of arms and ammunition in Bangladesh. Almost all other arms and ammunition are imported from abroad.

Issues that may be discussed at the upcoming United Nations Conference on the Arms Trade Treaty include the following:

(a) Defining the category of arms that may fall within the jurisdiction of this treaty;

(b) Determining a quota for trade in arms by a Member State;

(c) Defining sanction for countries facing threats from bordering countries;

(d) Provision of all weapons — including all military, security and police arms, related equipment and ammunition, components, expertise and production equipment;

(e) Provision of all types of transfer — including import, export, re-export, temporary transfer and trans-shipment, in the State-sanctioned and commercial trade, transfers of technology, loans, gifts and aid;

(f) Provision of all transactions — including those by dealers and brokers, and those providing technical assistance, training, transport, storage, finance and security;

(g) An arms trade treaty may contain provisions for special sanction for countries attempting to combat terrorism;

(h) Provisions for special sanction for newly established countries to enhance their defence and law enforcement capabilities;

(i) Special provision for organizations fully respectful of human rights and gender equality in their rules of engagement;

(j) Encouraging provisions for expansion of non-lethal weapons;

(k) Setting parameters for legal and illegal trade in arms;

(l) Setting of sanctions for illegal trade in arms;

(m) Declaring the supply of arms to insurgents of a State by a Member State to be illegal;

(n) Provisions for all developing countries having limited enforcement and defence capability;

(o) Assessing the record of the recipient State in violations of international law, including international humanitarian law, undermining democracy and abusing human rights;

(p) Assessing involvement in armed conflict and commitment of war crimes;

(q) Assessing any ongoing United Nations sanctions that prohibit the transfer of arms;

(r) Assessing any risk that transferred arms will be used against the civilian population or diverted to unauthorized hands;

(s) Promoting fair trade practices in the arms trade;

(t) Defining sanction for forces participating in United Nations peacekeeping operations;

(u) Providing guidelines for the treaty's full and clear implementation;

(v) Ensuring transparency, including full annual reports on national arms transfers;

(w) Having an effective mechanism to monitor compliance (a small cell/arrangement may be set up within the United Nations for such monitoring);

(x) Ensuring accountability through provisions for adjudication, dispute settlement and sanctions;

(y) Including provision for review/amendment of the treaty.

This is by no means an exhaustive list of matters and issues to be raised at the Conference. It is the intention of Bangladesh that, through the passing of this treaty, the unfair and illegal trade in arms will be reduced from its present levels in the world, thereby promoting world peace and unity.

European Union

[Original: English]
[17 August 2011]

Introduction

The European Union is fully supportive of the United Nations process leading to the adoption of an arms trade treaty, a new legally binding international instrument setting the highest common international standards to regulate international transfers of conventional arms. The European Union strongly believes that the success of the arms trade treaty process will also depend on the relevance that a future treaty could have to as many United Nations Member States as possible, in particular in terms of goals and objectives, scope, parameters, implementation mechanism, transparency and international cooperation and assistance.

Scope

The scope of the treaty should define both the types of items and the types of activities that should be regulated under an arms trade treaty. As far as items are concerned, the European Union is of the opinion that an arms trade treaty should cover most conventional weapons and military systems, including categories of weapons as defined in the United Nations Register of Conventional Arms, modified and enlarged as appropriate. The scope of the treaty should certainly include small arms and light weapons. Transfers of munitions and ammunition for all the arms categories encompassed by the scope as well as parts, components and related technology, specially designed or modified for military use, of those categories should also be covered.

As for the types of activities to be covered by the scope of the treaty, the European Union considers that an arms trade treaty should require controls on transfers and brokering of weapons covered by the scope of the treaty. Different control provisions for different types of transfers should be envisaged.

Parameters

Exports controlled under an arms trade treaty will have to be assessed by States parties against a number of parameters that the European Union would like to be as comprehensive as possible and of the highest possible standard. In cases where an export does not comply with relevant legally binding obligations mentioned in the parameters, States parties should deny such export. In other cases, the decision as to whether to authorize an arms export should be the result of a robust and well-informed risk assessment undertaken at the national level by States parties to the treaty, taking into account the end use and end user of the arms being exported.

Implementation mechanism

The implementation of an arms trade treaty should be a national responsibility. Under the terms of the treaty, each State party should develop a legal and administrative system that would ensure that it could control all items and transactions covered by the scope of an arms trade treaty.

Transparency

The treaty should contain provisions on transparency with regard to both the national implementation and application of an arms trade treaty. States parties should report on measures that they have adopted to ensure compliance with the provisions of the treaty. They should also regularly report, on an aggregated basis, on exports authorized. The treaty should include provisions encouraging States parties to exchange, upon request and as appropriate, information aimed at facilitating the assessment of arms transfer applications in accordance with the provisions of an arms trade treaty.

International cooperation and assistance

An arms trade treaty should include provisions on international cooperation and assistance, whereby States parties could seek assistance in completing their national implementation of the treaty. States parties in a position to do so could provide such assistance, including, inter alia, legislative assistance, mutual legal

assistance, institution-building and assistance in the development of necessary administrative measures, as well as technical assistance for the development of appropriate expertise in all national bodies involved in the transfer control system.

The engagement of the European Union in the area of international cooperation has already been demonstrated by several initiatives that the Union has been implementing in cooperation with the United Nations Institute for Disarmament Research over the past two years. Through a series of regional outreach and technical seminars, the European Union and the Institute have been promoting discussion and experience-sharing on the arms trade treaty process and specific aspects of control systems on transfers of conventional arms. The approach of these outreach activities has been fully inclusive, and all United Nations Member States are being involved in this exercise.

Conclusion

The European Union is committed to remaining firmly engaged in the process leading to a comprehensive and effective arms trade treaty. The increasing support for this initiative from many countries in different regions of the world testifies to the opportunity represented by an arms trade treaty to contribute to peace, security and stability and to address problems arising from the unregulated trade in conventional arms. The European Union looks forward to engaging in substantive consultations with all United Nations Member States during the next stages of the United Nations process devoted to the arms trade treaty.

Germany

[Original: English]
[27 June 2011]

Germany firmly supports the objective of establishing a global instrument containing legally binding common international standards for the transfer of conventional arms as proposed in General Assembly resolution 64/48, adopted by the Assembly on 2 December 2009. Germany believes that regulating the so far largely unregulated and uncontrolled spread of conventional arms and ammunition is a pressing task. Agreeing on and implementing global, legally binding common international standards for the transfer of conventional arms and ammunition would also contribute to combating effectively the illegal transfer of arms and ammunition. Broad and long-time national experience suggests that an instrument regarding the international trade in conventional arms needs to be robust, well balanced and implementable.

Germany welcomes the impressively strong and growing support among United Nations Member States across all regions for such an instrument. We acknowledge the importance that civil society plays in moving forward this project of an arms trade treaty.

Scope

Definition of the conventional arms and ammunition to be covered by the instrument

Germany believes that the instrument should cover all conventional arms, including munitions and ammunition and small arms and light weapons. As for the case of small arms and light weapons and large-calibre artillery systems, it is essential that the instrument leave no calibre gap. Due consideration should also be given to the inclusion of parts and components, specially designed or modified for military use, of all items included in the scope of an arms trade treaty.

Germany shares the view that the text of the treaty should contain references to general categories of activities and items covered by the scope of an arms trade treaty. More detailed descriptions for each category of items and activities should be included in an annex to the treaty. An indication and some guidance as to how such a listing, which needs to be practical and implementable, could be developed might be drawn from existing regional and/or global arrangements that have proved their practicability and applicability to export control needs.

Definition of the transactions to be covered by the instrument

Only a comprehensive definition of the range of transactions to be covered, i.e., transfers and brokering, will make the arms trade treaty an effective global instrument, thus also helping to combat and prevent the illicit transfer of arms. Keeping in mind that one approach does not fit all circumstances, different provisions for different types of transfers should be envisaged in such a way as to find the right balance between licensing requirements and other forms of control. Germany considers that an arms trade treaty should not regulate transfers occurring exclusively within a national context, or transfers by a State out of its territory in cases where the items are intended for its own use and remain under its control, such as the supply of troops on overseas missions. A future arms trade treaty needs to be compatible with Member States' existing obligations stemming from international or regional instruments related to the transfer of conventional arms.

Criteria

The determination of adequate criteria for responsible and legal transfers of conventional arms and ammunition constitutes the core of an arms trade treaty. Only an inclusive approach can make a meaningful contribution to the responsible trade in conventional arms and ammunition.

Germany maintains that the criteria/parameters of an arms trade treaty should reflect the following elements: compliance with Security Council resolutions on arms embargoes and sanctions; compliance with other legally binding arms embargoes or sanctions adopted by regional or subregional organizations to which individual States are party; compliance of the recipient State with international humanitarian law and respect for human rights; compliance of the recipient State with international commitments/obligations, in particular with regard to terrorism, organized transnational crime and the non-use of force; consideration of a substantial risk of adverse effects on regional security and stability, including impact on existing or potential inter- and intra-State conflicts; consideration of a substantial risk of diversion to unintended and unauthorized end users or to the

illicit market, including the risk of unauthorized re-export; and consideration of the impact on the sustainable economic and social development of the receiving country. States parties should assess, on a national basis and in a manner appropriate to the specific type of transfer, all transfers of conventional arms included in the scope of an arms trade treaty against these criteria. They should deny authorization for a transfer if they determine that one or more of the criteria are not met. It will be crucial to devise guidelines on how to assess the existence and degree of risk that the above criteria might be violated by authorizing a proposed transaction.

Implementation

National implementation

Once an arms trade treaty has been agreed upon, States parties will implement their obligations stemming from such an instrument and develop a legal and administrative system that would ensure that it could control all items and transactions covered by the scope of an arms trade treaty and include measures to prohibit the unauthorized trade of arms. Implementing an arms trade treaty must not imply a lowering of standards where States are already committed to more advanced controls.

Practical application

While the instrument will establish global, legally binding common international standards that will make a fundamental contribution to ensuring responsible trade in arms, the actual decision as to whether to authorize a transaction is incumbent on the individual State. Regarding export controls, a central issue for practical implementation is end-use verification.

In order to help States parties to benefit to the full extent from the instrument, sufficient transparency, information-sharing and certain reporting requirements will be necessary. Furthermore, feasible monitoring and enforcement mechanisms need to be included for the instrument to function effectively. States parties should be required to submit regular, preferably annual, reports on authorized transfers, including aggregated per country and per category data and the status of implementation of their obligations under an arms trade treaty.

International cooperation

Germany believes that an arms trade treaty should include provisions on international cooperation and assistance that should foresee the possibility of States parties seeking assistance to facilitate the national implementation of the treaty. States parties should also cooperate through the voluntary exchange of relevant information that could facilitate the assessment by national authorities of conventional arms transfer applications in accordance with the provisions of an arms trade treaty. Such cooperation between States parties could include voluntary mutual legal assistance in order to facilitate investigations on possible violations of the provisions of the treaty, including in tracing diverted transfers of weapons.

Conclusion

Germany hopes that these additional views on certain aspects of an arms trade treaty will further enhance the ongoing discussion. Germany will fully and actively

support the efforts towards the establishment of such a comprehensive, legally binding instrument establishing common international standards for the transfer of conventional arms.

Portugal

[Original: English]
[20 July 2011]

From the outset, Portugal has supported the negotiation of an arms trade treaty, in the framework of the United Nations. Portugal believes that such an international legal instrument will fill a major gap in international law by setting binding rules that will increase transparency in the international arms trade. Furthermore, it will contribute to the elimination of the illicit traffic of conventional weapons.

Portugal has been actively participating in all United Nations meetings and working groups related to the arms trade treaty, and looks forward to the adoption in 2012, as provided for by the General Assembly in its resolution 64/48, of a strong and robust treaty to which as many United Nations Member States as possible could become party.

Portugal attaches great importance to the definition of the treaty's scope and would like it to include the regulation of the export and brokering activities relating to all seven categories under the United Nations Register of Conventional Arms. In addition, the scope should include small arms and light weapons and munitions for all categories, including ammunition for small arms and light weapons, as well as technology, parts and components related to the aforementioned categories.

Portugal supports the clearest and highest standards possible against which to check export requests. However, Portugal recognizes that embedding a very narrow regulation within the treaty might undermine or delay the treaty's implementation.

Transparency measures are paramount for such a treaty. States parties should submit reports on aggregate numbers, especially on exports, on a regular basis.

Portugal would also like the arms trade treaty to be a step forward in international Humanitarian Law. Therefore, Portugal supports provisions on victim assistance, successfully linking a control regime to human rights and development.